

REMARKS

Claims 1-50 are currently pending in the subject application and are presently under consideration. Claims 1, 5, 14, 15, 24, 29, 30 and 47 have been amended as shown at pages 4-10 of the Reply. In addition, claim 11-13 have been cancelled. The specification and drawings have been amended as indicated on pages 2 and 3 respectively. Applicants' representative appreciates the Examiner's acknowledgement that claims 13-17 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Independent claims 1, 24, 29, 30 and 47 have been amended to include the allowable limitations of claim 13 and intervening claims 11 and 12 and have also been amended to address the 35 U.S.C. §101 rejection.

In view of at least the foregoing, it is believed the application is in condition for allowance - a prompt action to such end is earnestly solicited.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Objection to Drawings

The drawings stand objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 498 and 1110. The drawings also stand objected to as failing to comply with 37 CFR 1.84(p)(5) because they do include the following reference character(s) not mentioned in the description: 494 in Fig. 4 and 1111 in Fig. 11. The specification has been amended as indicated on page 2 to correct the reference from 498 to 494. Figure 11 has also been amended as indicated on page 3 to correct the reference number from 1111 to 1110. Therefore, this objection should be withdrawn.

II. Rejection of Claims 1-12, 18-22 and 24-50 Under 35 U.S.C. §101

Claims 1-12, 18-22 and 24-50 stand rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. The Federal Circuit has clearly established in *Eolas Techs., Inc. v. Microsoft Corp.*, 399 F.3d 1325, 1338 (Fed. Cir. 2005) and *AT&T Corp. v. Excel Communications, Inc.*, 172 F.3d 1352, 1358. (Fed.Cir. 1999) that inventions such as that claimed by applicants is statutory.

This court must also decide whether software code made in the United States and exported abroad is a "component of a patented invention" under 271(f)... Section 271(f) refers to "components of a patented invention."... Title 35, section 101, explains that an invention includes "any new and useful process, machine, manufacture or composition of matter."... Without question, *software code alone qualifies as an invention eligible for patenting under these categories*, at least as processes. *Eolas Techs., Inc. v. Microsoft Corp.*, 399 F.3d 1325, 1338 (Fed. Cir. 2005). (Emphasis added).

The Federal Circuit in *Eolas Techs., Inc. v. Microsoft Corp.* clearly established that software code alone is statutory subject matter. Independent claims 1, 29, 30 and 47 recite a **computer implemented system**. A system by itself is statutory subject matter. By the standards set forth in the above decision, a computer implemented system in the form of software, hardware, or the combination of both clearly falls within the categories of statutory subject matter. Independent claim 24 recites a **computer implemented method** and by the same standard as set forth above, this claim falls within the categories of statutory matter.

Furthermore, the subject claims produce a useful, concrete, and tangible result.

Because the claimed process [method] applies the Boolean principle to produce a useful, concrete, tangible result ... on its face the claimed process comfortably falls within the scope of §101. *AT&T Corp. v. Excel Communications, Inc.*, 172 F.3d 1352, 1358. (Fed.Cir. 1999); *See State Street Bank & Trust Co. v. Signature Fin. Group, Inc.*, 149 F.3d 1368, 1373, 47 USPQ2d 1596, 1601 (Fed.Cir.1998) (finding a system implementing a financial management structure satisfied §101 because it constituted a practical application of a mathematical algorithm by producing a useful, concrete and tangible result).

As provided above, the legal standard set forth by the Federal Circuit in *&T Corp. v. Excel Communications, Inc* for determining whether a claim is directed towards statutory subject matter is whether a claim can be applied in a practical application to produce a useful, concrete, and tangible result. Applicants' representative disagrees with the assertion in the Office Action that prediction, accuracy, forming queries and cost determined in a cost benefit analysis are not tangible results. A predicted accuracy can be employed to determine if a further action should be

taken such as submitting a query and is thus tangible. Forming a query is clearly a tangible result in that the query can be submitted to a search engine to retrieve information. A cost determination can be used to determine if further action is beneficial. The cost does not need to be limited to a dollar value, as the specification clearly provides the support for a cost being measured in various forms of interest to a user, organization or system, such as dollar value, time, computing resources, etc. However, the amendments to the independent claims to include allowable limitations of dependent claim 13 provide for a cost in a dollar value. Therefore, the result produced is a concrete, useful, and tangible result by the Examiner's standard.

In view of at least the foregoing, it is readily apparent that applicants' invention as recited in independent claims 1, 24, 29, 30 and 47 (and associated dependent claims 2-12, 18-22 and 25 28, 31-46, and 48-50) is statutory subject matter and produces a useful, concrete, and tangible result. Accordingly, withdrawal of this rejection is requested.

III. Rejection of Claim 26 Under 35 U.S.C. §112

Claim 26 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "...training at least one model to for the query..." is missing a key word between "to" and "for". Claim 26 has been amended to correct any informalities related to this objection. Thus, this objection should be withdrawn.

IV. Objection of Claims 3-5, 7, 11 and 42

Claims 3-5, 7, 11 and 42 stand objected to because of the following informalities:

- a. Claims 3, 4, 7 and 11 recite the limitation "the utility model". There is insufficient antecedent basis for this limitation in the claims.
- b. The phrase "one a local database" in claim 5 is grammatically incorrect.
- c. Claim 42 has a comma after a dot at the end.

Independent claim 1 has been amended to recite a "utility model" to address the objection to claims 3, 4, 7 and 11. Claims 5 and 42 have been amended to correct the informalities. Accordingly, this objection should be withdrawn.

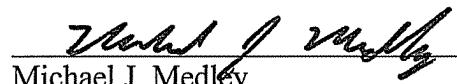
CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP481US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,
AMIN, TUROCY & CALVIN, LLP


Michael J. Medley
Reg. No. 57,058

AMIN, TUROCY & CALVIN, LLP
24TH Floor, National City Center
1900 E. 9TH Street
Cleveland, Ohio 44114
Telephone (216) 696-8730
Facsimile (216) 696-8731